

**MILL CITY  
MINUTES OF THE CITY COUNCIL  
Tuesday, October 9, 2018**

**Mayor Kirsch** opened the meeting at 6:30 PM with the flag salute. Councilors present were Scott Baughman, Penny A. Keen, Dawn Plotts and Tony Trout. Brett Katlong was excused. Staff members in attendance were City Recorder, Stacie Cook, City Attorney Jim McGehee and Public Works Supervisor Russ Foltz.

**Citizens in attendance were** Spring Aerni, Tena Bilyeu, Douglas Bush, Ann Carey, Earnest Freeman, Randall Craig, Janet Zeyen-Hall, Roel Lundquist and Steve Winn.

**DECLARATIONS OF POTENTIAL CONFLICTS OF INTEREST:** Mayor Kirsch stated that anyone who felt they may have a potential conflict with anything on tonight's agenda may say so at this time or at any time during tonight's meeting.

Councilor Baughman said that he has a conflict on accounts payable.

**CONSENT AGENDA**

Mayor Kirsch said that a check to Mike Salituro in the amount of \$1500 for the engineering of the public works pole building should be added to the accounts payable.

**Councilor Keen** moved and was seconded by **Councilor Trout**, to approve items a; Approval of Minutes of Regular City Council Meeting of September 25, 2018, b; Approval of Accounts Payable, c; Acceptance of Monthly Revenues and Expenditures Report, August 2018, and d; Approval of Leak Adjustment to Highest Consumption in Past Twelve Months for 49029 SE Kingwood Avenue; Gillasp, Engelina, of the consent agenda. Stacie Cook polled the council; the motion passed unanimously, (4:0:1) with Councilor Baughman abstaining.

**LINN COUNTY SHERIFF'S REPORT:** Sgt. Greg Klein gave the Linn County Sheriff's report for September.

Councilor Trout asked if the three crashes were inside the City limits. Sgt. Klein said that they were.

City Attorney Jim McGehee asked Sgt. Klein to remind the deputies that criminal citations need to be issued for the second Tuesday of the month instead of the fourth.

Councilor Keen asked if there is an update on the car break-ins that happened over the last few weeks. Sgt. Klein said that he has no update on this.

Councilor Plotts said that the van that was discussed at the last meeting was moved onto the property and asked for an update on this. Mrs. Cook said that a deputy spoke with the people about moving it. They did not comply by the time given so he tagged it and they then moved the van onto the property, which means it is now back in the staff's hands.

**PUBLIC WORKS REPORT:** Public Works Supervisor Russ Foltz gave a brief report on the following items:

Pump Report – The percentages are down. The new theory about the discrepancies is that it may be caused by the meters.

Spring Street Pump – A bearing went out in the pump at the Spring Street Pump Station. The back-up pump has been installed but there is a part that is bad in it. Due to this, it is not turned

on. When the one being fixed is back then this will be changed out and the back-up pump will need to go in for repair.

Mayor Kirsch asked if Mr. Foltz has given the go-ahead for fixing the pump. Mr. Foltz said that he has not heard back on the extent of the repairs and cost at this time but would bring it to Council for approval once he does because of his spending cap. Mayor Kirsch asked what the cap is. Mr. Foltz said that it is \$1000. Mayor Kirsch said that he doesn't see the need for this to come back to Council for approval. Councilor Trout agreed.

Water Line Corrosion Example – Mr. Foltz showed an example of C900, which is today's standard for water lines. Ductile Iron is the other option but it rusts. An example of a water main that was just replaced was shown as well. Mr. Foltz explained that the old lines are rusty and wearing with many repair bands to fix leaks.

SW Ivy Leak – The water main on SW Ivy Street is in the same condition as the old line shown this evening. It has multiple repair bands and leaks. This is a prime water main to be replaced using the C900 product. A leak on this line was repaired last week.

Mayor Kirsch said that he had spoken with Mr. Foltz about the actuators at the WWTP. The minutes from October 15, 2016 showed that there was a plan to drastically reduce the costs for repair to a cost of about \$5000. Mr. Foltz said that the issue with the \$5000 option for the actuators is that they don't have enough pressure to accommodate the voltage that was being recommended.

Mayor Kirsch said that the reason this was discussed initially is because the actuator zone changes are being done by hand instead of automatically as they should be done.

Mayor Kirsch said that it is his understanding that Mr. McGehee needs to know what the issue is and how much it costs to fix in order to move forward with a possible lawsuit. Mr. McGehee said that unless we know what the actual issue is, we won't know who may have been the party at fault.

Mr. McGehee said that if a reasonable cost for a fix can be found CH2MHill may be willing to assist with the fix, based on the email discussions that were taking place with them in 2016.

Mr. McGehee said that he needs two things; someone who is an expert to come in and say what failed and why and; what it will cost to fix.

Mr. McGehee said that the Fluent report can be taken to an attorney who is an expert in construction law. However, construction attorneys are very busy right now.

Roel Lundquist, SW Linn Blvd, said that he thinks the Council should move forward with getting cost estimates for the engineering on SW Ivy Street. Mr. Foltz said that he spoke with the City Engineer and he said that if he is going to engineer the water line it needs to be done right, with full engineering and survey work.

**CITIZEN COMMENTS AND QUESTIONS:** None.

**PRESENTATIONS:** None.

**PUBLIC HEARING:** No public hearings were held.

## **OLD BUSINESS**

Public Works Building Update: The Council directed staff to draft and issue an RFP for the public works building at the September 11, 2018 meeting. The final piece to the document was

determining what location was to be used for the site plan. With the Council decision of retaining the south side of the well property as the site for the new building, a site plan was drawn up and included in the RFP.

The RFP includes additive alternates for site prep/grading, insulation, transfer switch connection, containment structure and demolition of the existing shop on Wall Street.

Proposals must be submitted by November 30, 2018 at 5:00 PM.

Software Update: The data pull for the utility billing component of the software update will take place on October 17th, at which point we will have to cease using the system for items that will make changes within it. On October 22nd Accela will, via teleconference, assist Utility Billing Clerk Kimberley Johnson with the “go live” portion of the update. This will include inputting all of the payments, work orders, etc. that came in between the 17th and 21st of the month. It will also include assisting with inputting meter reads and running the first billing in the new software.

We are hopeful that this will be a smooth process but as with most things, there will likely be a few kinks to work out in the first few months. Our current system as well as a test system for the new software will remain on the computers so prior history can be obtained and any problems researched as needed.

Pacific Power Request for Easement: Mayor Kirsch said that he and City Recorder Stacie Cook met with representatives of Pacific Power last Friday to discuss the potential for installing fast charging stations at the Mill City Falls Park site. The conversation about retaining all spaces that we currently have was stressed to those in attendance. After looking at the site, it seems as though the existing easement can be used for the parking spaces and still keep access to the park and pump station. Mayor Kirsch said that this is a unique opportunity for us to have Pacific Power cover costs to install the parking spaces and get some improvements to our park since this is moving toward a great usable space for the community and visitors.

Councilor Plotts asked if there will be barriers to keep vehicles out of the rest of the park. Mayor Kirsch said that this is something that we will likely need to look at doing.

Mr. Lundquist asked if there was rationale for why they want six spaces. Mayor Kirsch said that four will be for the fast charges and two spaces that will allow for the old style charger.

Councilor Trout said that he likes that they will develop all of the spaces and we won't have to lose any spaces that are already developed.

Security Cameras: Steve Burkleo, NSSD, advised that the purchase of the security cameras was authorized on his end and he expects to receive the equipment within the next week or so.

Tiger Grant Update: A teleconference was held with FWHA on September 26th to discuss the status of the Tiger Grant. Those participating went through the first draft of the grant agreement section by section. Modifications are being made to the document, including adding the City as either the sole grant recipient instead of Linn County, who was listed or including both as co-recipients. A firm decision was not made on how this would be done by FHWA during the discussion. What this means, however, is that the City will be required to comply with the single audit requirement for any fiscal year in which we expend over \$750,000.

The draft agreement has been sent to City Attorney Jim McGehee for review. Once the grant agreement is in a more finalized state staff will provide a copy to Council for review. The final agreement will have to be approved by the Council and signed by the Mayor.

Mr. Lundquist said that we need to make sure we are putting money into the fund for this project when budget time arrives so we are sure to have our full match.

## NEW BUSINESS

Personnel Handbook – Vacation Language Interpretation: An excerpt of the City's personnel handbook which speaks to how/when vacation is accrued for employees of the City was provided for Council review.

The City has interpreted the handbook to say, as it is written, upon completion of the specific number of years, the additional time is given. Therefore, after completing four years of employment, the employee would begin receiving 120 hours of paid vacation and after completing ten years of employment, the employee would be receiving 160 hours of paid vacation.

Mrs. Cook conferred with David Kinney, who was the pro tem administrator until 2007 as well as with City Attorney Jim McGehee, regarding the language. Both indicated that the current interpretation is correct. However, Mr. McGehee advised that due to the ambiguousness of the language, it could be interpreted differently. There are questions from staff about when the additional vacation hours are provided to an employee. This is ultimately a decision that the Council must consider and make a determination on.

A decision should be made on the following:

At what point should an employee receive additional vacation hours based on service;

- a. At the beginning of the specific year
- b. At the beginning of the immediate year following
- c. In a lump sum at the completion of the specific year

Mr. McGehee said that he has read the excerpt multiple times and always comes up with a different interpretation. The Council should come up with a final determination and put it in writing for future reference.

Mayor Kirsch asked if compensatory time was given to employees for prior years, would this be something that is paid out or just extra weeks given. Mrs. Cook said that the Council would need to make this decision.

Councilor Baughman asked if a decision was made to make the vacation accumulation retroactive would this include past employees. Mrs. Cook said that she asked that question as well. Mr. McGehee said that there is probably a statute of limitations for past employees and possibly even for current employees.

Councilor Baughman said that this needs to be fixed but doesn't feel that it should be retroactive. Councilor Trout agreed.

Mr. McGehee said that the handbook will need to be updated to reflect the Council decision. Mrs. Cook and Mr. McGehee will work on the language change to be brought back to Council for approval.

**Councilor Trout** moved and was seconded by **Councilor Keen** to Interpret the Vacation Accrual Section of the Handbook to Be That Additional Hours for Vacation Begin at the Beginning of the Month of the Employee Anniversary Date Effective Immediately. The motion passed unanimously, (5:0).

Request for Right-of-Way Encroachment; Aerni, Spring – 239 SW Broadway St.: Spring Aerni, owner, 239 SW Broadway St, said that she is working with an engineer to come up with a plan to fix the building. In doing so, the truss direction will be changed. Ms. Aerni said that she would

like to include a 5'-6' overhang on the trusses to cover the sidewalks on SW 3<sup>rd</sup> Avenue. This would encroach just over 5' into the right-of-way at a height of 8'-10' above ground.

Mayor Kirsch said that one of the things that needs to be considered is whether this would cause issues in the future for people driving down the street.

Councilor Baughman said that a sidewalk would not be on the property line, it would be on the curb line with a space for utilities along the property line.

Councilor Trout asked how far the property line is from the building. Ms. Aerni said that it is 10" from the property line. Councilor Trout asked if the south portion of SW 3<sup>rd</sup> Avenue is also a 60' right-of-way. Ms. Aerni said that she believes it is.

Mr. McGehee said that if the Council chooses to approve this then it needs to be in writing and run with the deed to the property.

**Councilor Trout** moved and was seconded by **Councilor Keen** to Authorize a Five Foot Overhang Encroachment into the City Right-of-Way on SW 3<sup>rd</sup> Avenue for 239 SW Broadway Street with a Bottom Clearance of Not Less Than Ten Feet and to Direct City Attorney Jim McGehee to Draft a License for Said Overhang. The motion passed unanimously, (5:0).

## **STAFF/COMMISSION REPORTS**

### City Recorder Report

*List of On-Going Old Business Items:* A list of on-going old business items was provided for Council review.

Councilor Trout asked about the surveying for the Skatepark. Mrs. Cook said that survey work is still being completed.

*Reminder – Out of Office; 10/19 to 10/26:* Mrs. Cook reminded the Council that she will be out of the office from the 17<sup>th</sup> to the 26<sup>th</sup>. This includes a Council meeting. Mayor Kirsch asked if anyone is opposed to cancelling the October 23, 2018 meeting. Consensus to cancel the October 23<sup>rd</sup> meeting.

*City Hall Closure:* Mrs. Cook asked if the Council has any objection to closing the day after Thanksgiving. Consensus to close City Hall on Friday, November 23, 2018 as an unpaid holiday.

*Tree Lighting:* Mrs. Cook asked for the Council's thoughts on continuing the tree lighting. Last year there was another event the same day and time. Consensus to not hold a tree lighting.

### City Attorney Report

Mr. McGehee said that he has been working with the property on SE Fairview to get it cleaned up. The owner has agreed to provide documentation needed to have STR haul the vehicles away. However, there is a camper that needs to be taken away also and STR will charge to do so. If there is not an option to remove the camper at no cost then the City should offer to pay to have it hauled away with a monthly payment from the property owner to repay the City.

Mr. McGehee said that the property on SE 3<sup>rd</sup> and SE Ivy is mostly clear but there is some junk still remaining. The property owner will be advised that the rest needs to be removed. If this is done then the City will look at costs to determine if we can reduce the fine.

Mr. McGehee said that Jon Hoeye passed away. The property looks to be in worse shape than it was before. A letter will be sent to the attorney representing Mr. Hoeye's sister to advise that this

must be cleaned up or we will move toward continuing a lawsuit. Mr. McGehee said that he will also request permission for deputies to do a walk-through of the property nightly.

#### **BUSINESS FROM MAYOR & CITY COUNCILORS**

**Mayor Kirsch** and **Councilor Keen** had nothing to report.

**Councilor Baughman** said that there were four permits issued.

**Councilor Plotts** said that she attended the coffee with a cop event. It was very nice and she wishes more people would attend this kind of event.

Councilor Plotts said that she may speak with the Sheriff's Office about doing safety hints in the newsletter on a semi-regular basis.

**Councilor Trout** said that he will be attending the school event this Thursday but can only stay for half of the time. Councilor Keen said that she can take the second half.

Mr. Lundquist asked if an IGA should be entered into for the surveying and engineering for the SRTS grant application. Mr. McGehee said that it would be a good idea. Mrs. Cook said that we may have all costs invoiced and paid out before an IGA can be drafted and signed.

**EXECUTIVE SESSION: No Executive Session Held.**

#### **ADJOURNMENT**

The meeting was adjourned at 8:33 PM.

Prepared by:

Approved by:

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Stacie Cook, MMC  
City Recorder

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Tim Kirsch  
Mayor